

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

\_\_\_\_\_  
DONALD ACHER

*Plaintiff,*

v.

\_\_\_\_\_  
FUJITSU NETWORK COMMUNICATIONS,  
INC.

*Defendant.*  
\_\_\_\_\_

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)  
) CIVIL ACTION NO. 03-12099 (PBS)  
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**MOTION FOR LEAVE TO FILE REPLY BRIEF**

Pursuant to Local Civil Rule 7.1(b)(3), defendant, Fujitsu Network Communications, Inc. ("FNC"), hereby moves for leave to file a reply brief responding to points raised by plaintiff, Donald Acher ("Acher"), in Plaintiff's Opposition to Defendant's Motion to Compel Arbitration, or in the Alternative, Dismiss Complaint for Failure to State a Claim ("Opposition"). As grounds for this request, FNC states as follows:

1. On November 5, 2003, after this action was removed to this Court, FNC made a Motion to Compel Arbitration, or in the Alternative, Dismiss Complaint for Failure to State a Claim ("Motion").
2. On November 18, 2003, Acher served his Opposition to FNC's Motion.
3. The parties are scheduled to appear in Court on January 5, 2004 for a scheduling conference and for oral argument on FNC's Motion.
4. FNC would like the opportunity to file a reply brief to Acher's Opposition before the January 5<sup>th</sup> conference. A reply brief would demonstrate how Acher's analysis of the applicability of FNC's arbitration policy is flawed and how arbitration should be compelled at this time. In the event this Court decides not to compel arbitration, however, a reply brief would

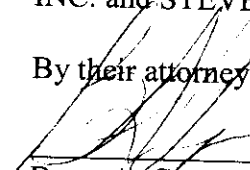
also demonstrate that Acher misapplies case law in his Opposition to FNC's Alternative Motion to Dismiss his claims.

WHEREFORE, FNC hereby requests leave to file a reply brief on or before December 18, 2003 responding to Plaintiff's Opposition to FNC's Motion to Compel Arbitration or, in the Alternative, Dismiss Complaint for Failure to State a Claim.

Respectfully submitted,

FUJITSU NETWORK COMMUNICATIONS,  
INC. and STEVEN UNGER

By their attorneys,



Barry A. Guryan, BBO #214920  
Jeffrey M. Rosin, BBO #629216  
Epstein, Becker & Green, P.C.  
111 Huntington Avenue  
Boston, MA 02199  
(617) 342-4000

Dated: November 25, 2003

**LOCAL RULE 7.1 CERTIFICATION**

I, Jeffrey M. Rosin, hereby certify on this 25<sup>th</sup> day of November 2003, that have conferred with counsel for Plaintiff identified below in advance of filing this Motion.

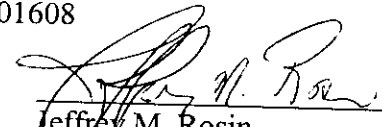


Jeffrey M. Rosin

**CERTIFICATE OF SERVICE**

I, Jeffrey M. Rosin, hereby certify on this 25th day of November 2003, that I served a copy of this Motion by First Class Mail to counsel for the plaintiff:

Gary H. Goldberg, Esq.  
Attorney at Law  
120 Main Street  
Worcester, Massachusetts 01608  
(508) 797-1018



Jeffrey M. Rosin